IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE J.CHELAMESWAR**

**and**
**THE HON'BLE MR JUSTICE GHULAM MOHAMMED**

**WRIT APPEAL NO : 739 of 2005**

Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/02/2005 in WP NO : 2650 OF 2005 on the file of the High Court.

Between:

B. Thimmaiah, S/o. Thimmaiah,
Sri Vidya Niketan Education Society, Gayatri Estates,
Devanagar, Kurnool.

**..... APPELLANT**

AND

1 Government of Andhra Pradesh, Rep. by the Principal
Secretary, Higher Education Department
Secretariat, Hyderabad.
2 Regional Joint Director of Education, Cuddapah.
3 Smt. S. Elbersal, W/o. S. Immaunal,
R/o. H.No. 45/86, N.R. Nagar, President S.J.S. Degree College,
Staff Association, Kurnool.

**.....RESPONDENTS**

**Counsel for the Appellant: MR.P.V.VENKATESWARA RAO**

**Counsel for the Respondents: GP FOR EDUCATION**

**The Court made the following:**

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED.

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W.A.NO.739 OF 2005

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ORAL JUDGMENT:

*(Per the Hon'ble Sri Justice J.Chelameswar)*

Aggrieved by an order dated 23rd February 2005 passed in Writ Petition No.2650 of 2005, the unsuccessful petitioner preferred this appeal.

The order impugned in the writ petition is the order of the Appellate Authority under Section 81 of the A.P.Education Act, 1982 calling upon the Primary Authority to furnish a report with regard to certain aspects of the matter in-dispute before the Appellate Authority, together with necessary documents. In substance, during the pendency of the appeal, the Appellate Authority came to the conclusion that the material available on record was not adequate and therefore called upon the Primary Authority to collect the material and place the same before it.

The learned counsel for the appellant submitted that even such a decision of calling for collection of additional information is required to be taken only after affording an opportunity to the appellant herein and as the appellant was not put on notice before such a decision is taken, the decision is illegal and in contravention of the principles of natural justice.

We do not seen any principle of law or authority placed before us to demonstrate that the Appellate Authority was bound to give an opportunity to the parties before taking such a decision. Reason, the decision in question will not affect any of the civil rights of the appellant herein, it is only in a case where the civil rights of the parties are likely to be affected, an opportunity is required to be given to the aggrieved party.

The learned Judge rightly came to the conclusion that such a decision did not

call for any interference and dismissed the writ petition. We do not see any valid reason to interfere with the order under appeal.

The appeal is merit less and is liable and accordingly, dismissed at the stage of admission. No costs.

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J.Chelameswar, J

_____

Ghulam Mohammed, J

mrk

1st April 2005.

**To**

1 The Principal Secretary, Government of Andhra Pradesh,
Higher Education Department, Secretariat, Hyderabad.
2 The Regional Joint Director of Education, Cuddapah.
3. 2 CCs to G.P. for Education, High Court Buildings,
Hyderabad (OUT)

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